

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LORENA INTERNATIONAL NORTH
AMERICA, INC.,

Plaintiff,

DECISION and ORDER

- against -

08-cv-2686-CPS-SMG

VICAN TRADING,

Defendant.

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VITALIANO, D.J.

On November 5, 2009, after granting the motion of the plaintiff corporation's counsel to withdraw, Chief Magistrate Judge Steven M. Gold issued his Report and Recommendation ("R&R") recommending that this case be dismissed with prejudice for failure to prosecute if plaintiff failed to appear with new counsel on or before November 23, 2009. Proof of service of the R&R on plaintiff at its address of record was filed on November 6, 2009. Plaintiff did not appear with new counsel on or before November 23, 2009; nor has any party objected to the R&R, much less within the time prescribed by 28 U.S.C. § 636(b)(1).

In reviewing a magistrate judge's report and recommendation, this Court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y.

1985); see also Greene v. Trustees of Columbia Univ., 234 F. Supp. 2d 368, 370-71 (S.D.N.Y. 2002); Pizarro v. Bartlett, 776 F. Supp. 815, 817 (S.D.N.Y. 1991).

The Court finds Judge Gold's Report and Recommendation as to the dismissal of the complaint for failure to prosecute to be correct, well-reasoned, and free of any clear error. "It has been the law for the better part of two centuries . . . that a corporation may appear in the federal courts only through licensed counsel." Rowland v. Ca. Men's Colony, Unit II Men's Advisory Council, 506 U.S. 194, 201-202, 113 S. Ct. 716, 721 (1993). Judge Gold scheduled a pretrial conference in this action, ordered plaintiff to appear through a fully authorized legal representative, clearly advised plaintiff that it could not sue pro se, and warned that he would recommend dismissal of this action with prejudice in the event that plaintiff failed to appear promptly through licensed counsel. Nonetheless, plaintiff failed to send anyone at all (neither corporate representative nor newly retained counsel) to appear on its behalf as ordered by Judge Gold, and has made no effort to contact either the Court or defendant's counsel to express an intent to retain new counsel and prosecute the case. The Court therefore, adopts Judge Gold's Report and Recommendation in its entirety as the opinion of the Court.

Accordingly, the complaint is dismissed with prejudice for failure to prosecute this action. The Clerk of the Court is directed to close this case.

SO ORDERED.

DATED: Brooklyn, New York
January 6, 2010

s/ENV

ERIC N. VITALIANO
United States District Judge